

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

|                                       |   |                         |
|---------------------------------------|---|-------------------------|
| LOCAL 513, INTERNATIONAL UNION OF     | ) |                         |
| OPERATING ENGINEERS, AFL-CIO, et al., | ) |                         |
|                                       | ) |                         |
| Plaintiffs,                           | ) |                         |
|                                       | ) | Case: 4:20-cv-00981-HEA |
| v.                                    | ) |                         |
|                                       | ) |                         |
| INNOVATED CONSTRUCTION LLC,           | ) |                         |
|                                       | ) |                         |
| Defendant.                            | ) |                         |

**OPINION, MEMORANDUM AND ORDER ON**  
**PLAINTIFFS' MOTION FOR DEFAULT ORDER**  
**TO COMPEL AN ACCOUNTING**

This matter is before the Court on Plaintiffs' motion for default judgment against **Innovated Construction, LLC** (hereinafter, "**Innovated**"). Plaintiffs are the union and the trustees, sponsors and/or fiduciaries of the various funds.

Plaintiffs filed this action on **July 28, 2020** under the Employee Retirement Security Act, 29 U.S.C. §§ 1132 and 1145. The Complaint alleges **Innovated** failed to make accounting and fully pay several employee benefit funds and contributions due under the collective bargaining agreement between **Innovated** and its employees' union.

The Clerk of Court entered an order of default against the Defendants on **October 15, 2020**. [Doc. #9]. Plaintiffs have filed a motion seeking an accounting under the trust documents, collective bargaining agreement and common law under ERISA.

When the Clerk of Court has entered default against a defendant, the "allegations of the complaint except as to the amount of damages are taken as true." Mueller v. Jones, No. 2:08CV16 JCH, 2009 WL 500837, at \*1 n.2 (E.D. Mo. Feb. 27, 2009) (quoting Brown v. Kenron Aluminum & Glass Corp., 477 F.2d 526, 531 (8th Cir. 1973)). Accordingly, in deciding the present motion for Default Judgment, the Court accepts as true the factual allegations contained

in the Plaintiffs' complaint together with Plaintiffs' motion and memorandum in support as they relate to the Plaintiffs' damages and prayer for relief.

Based on those allegations taken as true, plaintiffs are entitled to the relief requested.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiffs' motion for partial default judgment is **GRANTED**. **Innovated** shall submit the documents requested for the period **March 2019** to the date of this Order to Plaintiff within ten (10) days of this Memorandum and Order. Failure to comply with this Order may result in the imposition of sanctions. Plaintiffs are granted leave in order to request attorney's fees and costs incurred at a later stage in this litigation.

Dated this 19<sup>th</sup> day of October 2020.

A handwritten signature in black ink, reading "Henry Edward Autrey", is positioned above a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE